

1 **TITLE III—INSURANCE**
2 **Subtitle A—State Regulation of**
3 **Insurance**

4 **SEC. 301. FUNCTIONAL REGULATION OF INSURANCE.**

5 The insurance activities of any person (including a
6 national bank exercising its power to act as agent under
7 the eleventh undesignated paragraph of section 13 of the
8 Federal Reserve Act) shall be functionally regulated by the
9 States, subject to section 104.

10 **SEC. 302. INSURANCE UNDERWRITING IN NATIONAL**
11 **BANKS.**

12 (a) IN GENERAL.—Except as provided in section 303,
13 a national bank and the subsidiaries of a national bank
14 may not provide insurance in a State as principal except
15 that this prohibition shall not apply to authorized prod-
16 ucts.

17 (b) AUTHORIZED PRODUCTS.—For the purposes of
18 this section, a product is authorized if—

19 (1) as of January 1, 1999, the Comptroller of
20 the Currency had determined in writing that na-
21 tional banks may provide such product as principal,
22 or national banks were in fact lawfully providing
23 such product as principal;

1 (2) no court of relevant jurisdiction had, by
2 final judgment, overturned a determination of the
3 Comptroller of the Currency that national banks
4 may provide such product as principal; and

5 (3) the product is not title insurance, or an an-
6 nuity contract the income of which is subject to tax
7 treatment under section 72 of the Internal Revenue
8 Code of 1986.

9 (c) DEFINITION.—For purposes of this section, the
10 term “insurance” means—

11 (1) any product regulated as insurance as of
12 January 1, 1999, in accordance with the relevant
13 State insurance law, in the State in which the prod-
14 uct is provided;

15 (2) any product first offered after January 1,
16 1999, which—

17 (A) a State insurance regulator determines
18 shall be regulated as insurance in the State in
19 which the product is provided because the prod-
20 uct insures, guarantees, or indemnifies against
21 liability, loss of life, loss of health, or loss
22 through damage to or destruction of property,
23 including, but not limited to, surety bonds, life
24 insurance, health insurance, title insurance, and
25 property and casualty insurance (such as pri-

1 vate passenger or commercial automobile,
2 homeowners, mortgage, commercial multiperil,
3 general liability, professional liability, workers'
4 compensation, fire and allied lines, farm owners
5 multiperil, aircraft, fidelity, surety, medical
6 malpractice, ocean marine, inland marine, and
7 boiler and machinery insurance); and

8 (B) is not a product or service of a bank
9 that is—

- 10 (i) a deposit product;
11 (ii) a loan, discount, letter of credit,
12 or other extension of credit;
13 (iii) a trust or other fiduciary service;
14 (iv) a qualified financial contract (as
15 defined in or determined pursuant to sec-
16 tion 11(e)(8)(D)(i) of the Federal Deposit
17 Insurance Act); or
18 (v) a financial guaranty, except that
19 this subparagraph (B) shall not apply to a
20 product that includes an insurance compo-
21 nent such that if the product is offered or
22 proposed to be offered by the bank as
23 principal—

24 (I) it would be treated as a life
25 insurance contract under section 7702

1 of the Internal Revenue Code of 1986;
2 or

3 (II) in the event that the product
4 is not a letter of credit or other simi-
5 lar extension of credit, a qualified fi-
6 nancial contract, or a financial guar-
7 anty, it would qualify for treatment
8 for losses incurred with respect to
9 such product under section 832(b)(5)
10 of the Internal Revenue Code of 1986,
11 if the bank were subject to tax as an
12 insurance company under section 831
13 of that Code; or

14 (3) any annuity contract, the income on which
15 is subject to tax treatment under section 72 of the
16 Internal Revenue Code of 1986.

17 (d) RULE OF CONSTRUCTION.—For purposes of this
18 section, providing insurance (including reinsurance) out-
19 side the United States that insures, guarantees, or indem-
20 nifies insurance products provided in a State, or that in-
21 demnifies an insurance company with regard to insurance
22 products provided in a State, shall be considered to be pro-
23 viding insurance as principal in that State.

1 **SEC. 303. TITLE INSURANCE ACTIVITIES OF NATIONAL**
2 **BANKS AND THEIR AFFILIATES.**

3 (a) GENERAL PROHIBITION.—No national bank may
4 engage in any activity involving the underwriting or sale
5 of title insurance.

6 (b) NONDISCRIMINATION PARITY EXCEPTION.—

7 (1) IN GENERAL.—Notwithstanding any other
8 provision of law (including section 104 of this Act),
9 in the case of any State in which banks organized
10 under the laws of such State are authorized to sell
11 title insurance as agent, a national bank may sell
12 title insurance as agent in such State, but only in
13 the same manner, to the same extent, and under the
14 same restrictions as such State banks are authorized
15 to sell title insurance as agent in such State.

16 (2) COORDINATION WITH “WILDCARD” PROVI-
17 SION.—A State law which authorizes State banks to
18 engage in any activities in such State in which a na-
19 tional bank may engage shall not be treated as a
20 statute which authorizes State banks to sell title in-
21 surance as agent, for purposes of paragraph (1).

22 (c) GRANDFATHERING WITH CONSISTENT REGULA-
23 TION.—

24 (1) IN GENERAL.—Except as provided in para-
25 graphs (2) and (3) and notwithstanding subsections
26 (a) and (b), a national bank, and a subsidiary of a

1 national bank, may conduct title insurance activities
2 which such national bank or subsidiary was actively
3 and lawfully conducting before the date of the enact-
4 ment of this Act.

5 (2) INSURANCE AFFILIATE.—In the case of a
6 national bank which has an affiliate which provides
7 insurance as principal and is not a subsidiary of the
8 bank, the national bank and any subsidiary of the
9 national bank may not engage in the underwriting of
10 title insurance pursuant to paragraph (1).

11 (3) INSURANCE SUBSIDIARY.—In the case of a
12 national bank which has a subsidiary which provides
13 insurance as principal and has no affiliate other
14 than a subsidiary which provides insurance as prin-
15 cipal, the national bank may not directly engage in
16 any activity involving the underwriting of title insur-
17 ance.

18 (d) “AFFILIATE” AND “SUBSIDIARY” DEFINED.—
19 For purposes of this section, the terms “affiliate” and
20 “subsidiary” have the same meanings as in section 2 of
21 the Bank Holding Company Act of 1956.

22 (e) RULE OF CONSTRUCTION.—No provision of this
23 Act or any other Federal law shall be construed as super-
24 seding or affecting a State law which was in effect before
25 the date of the enactment of this Act and which prohibits

1 title insurance from being offered, provided, or sold in
2 such State, or from being underwritten with respect to
3 real property in such State, by any person whatsoever.

4 **SEC. 304. EXPEDITED AND EQUALIZED DISPUTE RESOLU-**
5 **TION FOR FEDERAL REGULATORS.**

6 (a) FILING IN COURT OF APPEALS.—In the case of
7 a regulatory conflict between a State insurance regulator
8 and a Federal regulator regarding insurance issues, in-
9 cluding whether a State law, rule, regulation, order, or in-
10 terpretation regarding any insurance sales or solicitation
11 activity is properly treated as preempted under Federal
12 law, the Federal or State regulator may seek expedited
13 judicial review of such determination by the United States
14 Court of Appeals for the circuit in which the State is lo-
15 cated or in the United States Court of Appeals for the
16 District of Columbia Circuit by filing a petition for review
17 in such court.

18 (b) EXPEDITED REVIEW.—The United States Court
19 of Appeals in which a petition for review is filed in accord-
20 ance with subsection (a) shall complete all action on such
21 petition, including rendering a judgment, before the end
22 of the 60-day period beginning on the date on which such
23 petition is filed, unless all parties to such proceeding agree
24 to any extension of such period.

1 (c) SUPREME COURT REVIEW.—Any request for cer-
2 tiorari to the Supreme Court of the United States of any
3 judgment of a United States Court of Appeals with respect
4 to a petition for review under this section shall be filed
5 with the Supreme Court of the United States as soon as
6 practicable after such judgment is issued.

7 (d) STATUTE OF LIMITATION.—No petition may be
8 filed under this section challenging an order, ruling, deter-
9 mination, or other action of a Federal regulator or State
10 insurance regulator after the later of—

11 (1) the end of the 12-month period beginning
12 on the date on which the first public notice is made
13 of such order, ruling, determination or other action
14 in its final form; or

15 (2) the end of the 6-month period beginning on
16 the date on which such order, ruling, determination,
17 or other action takes effect.

18 (e) STANDARD OF REVIEW.—The court shall decide
19 a petition filed under this section based on its review on
20 the merits of all questions presented under State and Fed-
21 eral law, including the nature of the product or activity
22 and the history and purpose of its regulation under State
23 and Federal law, without unequal deference.

1 **SEC. 305. INSURANCE CUSTOMER PROTECTIONS.**

2 The Federal Deposit Insurance Act (12 U.S.C. 1811
3 et seq.) is amended by inserting after section 46, as added
4 by section 121(d) of this Act, the following new section:

5 **“SEC. 47. INSURANCE CUSTOMER PROTECTIONS.**

6 “(a) REGULATIONS REQUIRED.—

7 “(1) IN GENERAL.—The Federal banking agen-
8 cies shall prescribe and publish in final form, before
9 the end of the 1-year period beginning on the date
10 of the enactment of the Gramm-Leach-Bliley Act,
11 customer protection regulations (which the agencies
12 jointly determine to be appropriate) that—

13 “(A) apply to retail sales practices, solici-
14 tations, advertising, or offers of any insurance
15 product by any depository institution or any
16 person that is engaged in such activities at an
17 office of the institution or on behalf of the insti-
18 tution; and

19 “(B) are consistent with the requirements
20 of this Act and provide such additional protec-
21 tions for customers to whom such sales, solici-
22 tations, advertising, or offers are directed.

23 “(2) APPLICABILITY TO SUBSIDIARIES.—The
24 regulations prescribed pursuant to paragraph (1)
25 shall extend such protections to any subsidiary of a
26 depository institution, as deemed appropriate by the

1 regulators referred to in paragraph (3), where such
2 extension is determined to be necessary to ensure
3 the consumer protections provided by this section.

4 “(3) CONSULTATION AND JOINT REGULA-
5 TIONS.—The Federal banking agencies shall consult
6 with each other and prescribe joint regulations pur-
7 suant to paragraph (1), after consultation with the
8 State insurance regulators, as appropriate.

9 “(b) SALES PRACTICES.—The regulations prescribed
10 pursuant to subsection (a) shall include antitying and
11 anticoercion rules applicable to the sale of insurance prod-
12 ucts that prohibit a depository institution from engaging
13 in any practice that would lead a customer to believe an
14 extension of credit, in violation of section 106(b) of the
15 Bank Holding Company Act Amendments of 1970, is con-
16 ditional upon—

17 “(1) the purchase of an insurance product from
18 the institution or any of its affiliates; or

19 “(2) an agreement by the consumer not to ob-
20 tain, or a prohibition on the consumer from obtain-
21 ing, an insurance product from an unaffiliated enti-
22 ty.

23 “(c) DISCLOSURES AND ADVERTISING.—The regula-
24 tions prescribed pursuant to subsection (a) shall include
25 the following provisions relating to disclosures and adver-

1 tising in connection with the initial purchase of an insur-
2 ance product:

3 “(1) DISCLOSURES.—

4 “(A) IN GENERAL.—Requirements that the
5 following disclosures be made orally and in writ-
6 ing before the completion of the initial sale and,
7 in the case of clause (iii), at the time of applica-
8 tion for an extension of credit:

9 “(i) UNINSURED STATUS.—As appro-
10 priate, the product is not insured by the
11 Federal Deposit Insurance Corporation,
12 the United States Government, or the de-
13 pository institution.

14 “(ii) INVESTMENT RISK.—In the case
15 of a variable annuity or other insurance
16 product which involves an investment risk,
17 that there is an investment risk associated
18 with the product, including possible loss of
19 value.

20 “(iii) COERCION.—The approval of an
21 extension of credit may not be conditioned
22 on—

23 “(I) the purchase of an insurance
24 product from the institution in which

1 the application for credit is pending or
2 any of affiliate of the institution; or

3 “(II) an agreement by the con-
4 sumer not to obtain, or a prohibition
5 on the consumer from obtaining, an
6 insurance product from an unaffili-
7 ated entity.

8 “(B) MAKING DISCLOSURE READILY UN-
9 DERSTANDABLE.—Regulations prescribed under
10 subparagraph (A) shall encourage the use of
11 disclosure that is conspicuous, simple, direct,
12 and readily understandable, such as the fol-
13 lowing:

14 “(i) ‘NOT FDIC—INSURED’.

15 “(ii) ‘NOT GUARANTEED BY THE
16 BANK’.

17 “(iii) ‘MAY GO DOWN IN VALUE’.

18 “(iv) ‘NOT INSURED BY ANY
19 GOVERNMENT AGENCY’.

20 “(C) LIMITATION.—Nothing in this para-
21 graph requires the inclusion of the foregoing
22 disclosures in advertisements of a general na-
23 ture describing or listing the services or prod-
24 ucts offered by an institution.

1 “(D) MEANINGFUL DISCLOSURES.—Disclo-
2 sures shall not be considered to be meaningfully
3 provided under this paragraph if the institution
4 or its representative states that disclosures re-
5 quired by this subsection were available to the
6 customer in printed material available for dis-
7 tribution, where such printed material is not
8 provided and such information is not orally dis-
9 closed to the customer.

10 “(E) ADJUSTMENTS FOR ALTERNATIVE
11 METHODS OF PURCHASE.—In prescribing the
12 requirements under subparagraphs (A) and (F),
13 necessary adjustments shall be made for pur-
14 chase in person, by telephone, or by electronic
15 media to provide for the most appropriate and
16 complete form of disclosure and acknowledg-
17 ments.

18 “(F) CONSUMER ACKNOWLEDGMENT.—A
19 requirement that a depository institution shall
20 require any person selling an insurance product
21 at any office of, or on behalf of, the institution
22 to obtain, at the time a consumer receives the
23 disclosures required under this paragraph or at
24 the time of the initial purchase by the consumer
25 of such product, an acknowledgment by such

1 consumer of the receipt of the disclosure re-
2 quired under this subsection with respect to
3 such product.

4 “(2) PROHIBITION ON MISREPRESENTA-
5 TIONS.—A prohibition on any practice, or any adver-
6 tising, at any office of, or on behalf of, the deposi-
7 tory institution, or any subsidiary, as appropriate,
8 that could mislead any person or otherwise cause a
9 reasonable person to reach an erroneous belief with
10 respect to—

11 “(A) the uninsured nature of any insur-
12 ance product sold, or offered for sale, by the in-
13 stitution or any subsidiary of the institution;

14 “(B) in the case of a variable annuity or
15 insurance product that involves an investment
16 risk, the investment risk associated with any
17 such product; or

18 “(C) in the case of an institution or sub-
19 sidiary at which insurance products are sold or
20 offered for sale, the fact that—

21 “(i) the approval of an extension of
22 credit to a customer by the institution or
23 subsidiary may not be conditioned on the
24 purchase of an insurance product by such

1 customer from the institution or sub-
2 sidiary; and

3 “(ii) the customer is free to purchase
4 the insurance product from another source.

5 “(d) SEPARATION OF BANKING AND NONBANKING
6 ACTIVITIES.—

7 “(1) REGULATIONS REQUIRED.—The regula-
8 tions prescribed pursuant to subsection (a) shall in-
9 clude such provisions as the Federal banking agen-
10 cies consider appropriate to ensure that the routine
11 acceptance of deposits is kept, to the extent prac-
12 ticable, physically segregated from insurance product
13 activity.

14 “(2) REQUIREMENTS.—Regulations prescribed
15 pursuant to paragraph (1) shall include the fol-
16 lowing requirements:

17 “(A) SEPARATE SETTING.—A clear delin-
18 eation of the setting in which, and the cir-
19 cumstances under which, transactions involving
20 insurance products should be conducted in a lo-
21 cation physically segregated from an area where
22 retail deposits are routinely accepted.

23 “(B) REFERRALS.—Standards that permit
24 any person accepting deposits from the public
25 in an area where such transactions are rou-

1 tinely conducted in a depository institution to
2 refer a customer who seeks to purchase any in-
3 surance product to a qualified person who sells
4 such product, only if the person making the re-
5 ferral receives no more than a one-time nominal
6 fee of a fixed dollar amount for each referral
7 that does not depend on whether the referral
8 results in a transaction.

9 “(C) QUALIFICATION AND LICENSING RE-
10 QUIREMENTS.—Standards prohibiting any de-
11 pository institution from permitting any person
12 to sell or offer for sale any insurance product
13 in any part of any office of the institution, or
14 on behalf of the institution, unless such person
15 is appropriately qualified and licensed.

16 “(e) DOMESTIC VIOLENCE DISCRIMINATION PROHI-
17 BITION.—

18 “(1) IN GENERAL.—In the case of an applicant
19 for, or an insured under, any insurance product de-
20 scribed in paragraph (2), the status of the applicant
21 or insured as a victim of domestic violence, or as a
22 provider of services to victims of domestic violence,
23 shall not be considered as a criterion in any decision
24 with regard to insurance underwriting, pricing, re-
25 newal, or scope of coverage of insurance policies, or

1 payment of insurance claims, except as required or
2 expressly permitted under State law.

3 “(2) SCOPE OF APPLICATION.—The prohibition
4 contained in paragraph (1) shall apply to any life or
5 health insurance product which is sold or offered for
6 sale, as principal, agent, or broker, by any deposi-
7 tory institution or any person who is engaged in
8 such activities at an office of the institution or on
9 behalf of the institution.

10 “(3) DOMESTIC VIOLENCE DEFINED.—For pur-
11 poses of this subsection, the term ‘domestic violence’
12 means the occurrence of one or more of the following
13 acts by a current or former family member, house-
14 hold member, intimate partner, or caretaker:

15 “(A) Attempting to cause or causing or
16 threatening another person physical harm, se-
17 vere emotional distress, psychological trauma,
18 rape, or sexual assault.

19 “(B) Engaging in a course of conduct or
20 repeatedly committing acts toward another per-
21 son, including following the person without
22 proper authority, under circumstances that
23 place the person in reasonable fear of bodily in-
24 jury or physical harm.

1 “(C) Subjecting another person to false
2 imprisonment.

3 “(D) Attempting to cause or cause damage
4 to property so as to intimidate or attempt to
5 control the behavior of another person.

6 “(f) CONSUMER GRIEVANCE PROCESS.—The Federal
7 banking agencies shall jointly establish a consumer com-
8 plaint mechanism, for receiving and expeditiously address-
9 ing consumer complaints alleging a violation of regulations
10 issued under the section, which shall—

11 “(1) establish a group within each regulatory
12 agency to receive such complaints;

13 “(2) develop procedures for investigating such
14 complaints;

15 “(3) develop procedures for informing con-
16 sumers of rights they may have in connection with
17 such complaints; and

18 “(4) develop procedures for addressing concerns
19 raised by such complaints, as appropriate, including
20 procedures for the recovery of losses to the extent
21 appropriate.

22 “(g) EFFECT ON OTHER AUTHORITY.—

23 “(1) IN GENERAL.—No provision of this section
24 shall be construed as granting, limiting, or otherwise
25 affecting—

1 “(A) any authority of the Securities and
2 Exchange Commission, any self-regulatory or-
3 ganization, the Municipal Securities Rule-
4 making Board, or the Secretary of the Treasury
5 under any Federal securities law; or

6 “(B) except as provided in paragraph (2),
7 any authority of any State insurance commis-
8 sion (or any agency or office performing like
9 functions), or of any State securities commis-
10 sion (or any agency or office performing like
11 functions), or other State authority under any
12 State law.

13 “(2) COORDINATION WITH STATE LAW.—

14 “(A) IN GENERAL.—Except as provided in
15 subparagraph (B), insurance customer protec-
16 tion regulations prescribed by a Federal bank-
17 ing agency under this section shall not apply to
18 retail sales, solicitations, advertising, or offers
19 of any insurance product by any depository in-
20 stitution or to any person who is engaged in
21 such activities at an office of such institution or
22 on behalf of the institution, in a State where
23 the State has in effect statutes, regulations, or-
24 ders, or interpretations, that are inconsistent

1 with or contrary to the regulations prescribed
2 by the Federal banking agencies.

3 “(B) PREEMPTION.—

4 “(i) IN GENERAL.—If, with respect to
5 any provision of the regulations prescribed
6 under this section, the Board of Governors
7 of the Federal Reserve System, the Comp-
8 troller of the Currency, and the Board of
9 Directors of the Corporation determine
10 jointly that the protection afforded by such
11 provision for customers is greater than the
12 protection provided by a comparable provi-
13 sion of the statutes, regulations, orders, or
14 interpretations referred to in subparagraph
15 (A) of any State, the appropriate State
16 regulatory authority shall be notified of
17 such determination in writing.

18 “(ii) CONSIDERATIONS.—Before mak-
19 ing a final determination under clause (i),
20 the Federal agencies referred to in clause
21 (i) shall give appropriate consideration to
22 comments submitted by the appropriate
23 State regulatory authorities relating to the
24 level of protection afforded to consumers
25 under State law.

1 “(iii) FEDERAL PREEMPTION AND
2 ABILITY OF STATES TO OVERRIDE FED-
3 ERAL PREEMPTION.—If the Federal agen-
4 cies referred to in clause (i) jointly deter-
5 mine that any provision of the regulations
6 prescribed under this section affords great-
7 er protections than a comparable State
8 law, rule, regulation, order, or interpreta-
9 tion, those agencies shall send a written
10 preemption notice to the appropriate State
11 regulatory authority to notify the State
12 that the Federal provision will preempt the
13 State provision and will become applicable
14 unless, not later than 3 years after the
15 date of such notice, the State adopts legis-
16 lation to override such preemption.

17 “(h) NON-DISCRIMINATION AGAINST NON-AFFILI-
18 ATED AGENTS.—The Federal banking agencies shall en-
19 sure that the regulations prescribed pursuant to sub-
20 section (a) shall not have the effect of discriminating, ei-
21 ther intentionally or unintentionally, against any person
22 engaged in insurance sales or solicitations that is not af-
23 filiated with a depository institution.”.

1 **SEC. 306. CERTAIN STATE AFFILIATION LAWS PREEMPTED**
2 **FOR INSURANCE COMPANIES AND AFFILI-**
3 **ATES.**

4 Except as provided in section 104(c)(2), no State
5 may, by law, regulation, order, interpretation, or
6 otherwise—

7 (1) prevent or significantly interfere with the
8 ability of any insurer, or any affiliate of an insurer
9 (whether such affiliate is organized as a stock com-
10 pany, mutual holding company, or otherwise), to be-
11 come a financial holding company or to acquire con-
12 trol of a depository institution;

13 (2) limit the amount of an insurer's assets that
14 may be invested in the voting securities of a deposi-
15 tory institution (or any company which controls such
16 institution), except that the laws of an insurer's
17 State of domicile may limit the amount of such in-
18 vestment to an amount that is not less than 5 per-
19 cent of the insurer's admitted assets; or

20 (3) prevent, significantly interfere with, or have
21 the authority to review, approve, or disapprove a
22 plan of reorganization by which an insurer proposes
23 to reorganize from mutual form to become a stock
24 insurer (whether as a direct or indirect subsidiary of
25 a mutual holding company or otherwise) unless such
26 State is the State of domicile of the insurer, except

1 that the appropriate regulatory authority of the
2 State of domicile of the insurer shall consult with
3 the appropriate regulatory authority in any other
4 State in which the insurer conducts business, re-
5 garding issues affecting the best interests of policy-
6 holders.

7 **SEC. 307. INTERAGENCY CONSULTATION.**

8 (a) PURPOSE.—It is the intention of the Congress
9 that the Board of Governors of the Federal Reserve Sys-
10 tem, as the umbrella supervisor for financial holding com-
11 panies, and the State insurance regulators, as the func-
12 tional regulators of companies engaged in insurance activi-
13 ties, coordinate efforts to supervise companies that control
14 both a depository institution and a company engaged in
15 insurance activities regulated under State law. In par-
16 ticular, Congress believes that the Board and the State
17 insurance regulators should share, on a confidential basis,
18 information relevant to the supervision of companies that
19 control both a depository institution and a company en-
20 gaged in insurance activities, including information re-
21 garding the financial health of the consolidated organiza-
22 tion and information regarding transactions and relation-
23 ships between insurance companies and affiliated deposi-
24 tory institutions. The appropriate Federal banking agen-
25 cies for depository institutions should also share, on a con-

1 fidential basis, information with the relevant State insur-
2 ance regulators regarding transactions and relationships
3 between depository institutions and affiliated companies
4 engaged in insurance activities. The purpose of this sec-
5 tion is to encourage this coordination and confidential
6 sharing of information, and to thereby improve both the
7 efficiency and the quality of the supervision of financial
8 holding companies and their affiliated depository institu-
9 tions and companies engaged in insurance activities.

10 (b) EXAMINATION RESULTS AND OTHER INFORMA-
11 TION.—

12 (1) INFORMATION OF THE BOARD.—Upon the
13 request of the appropriate insurance regulator of
14 any State, the Board may provide any information
15 of the Board regarding the financial condition, risk
16 management policies, and operations of any financial
17 holding company that controls a company that is en-
18 gaged in insurance activities and is regulated by
19 such State insurance regulator, and regarding any
20 transaction or relationship between such an insur-
21 ance company and any affiliated depository institu-
22 tion. The Board may provide any other information
23 to the appropriate State insurance regulator that the
24 Board believes is necessary or appropriate to permit

1 the State insurance regulator to administer and en-
2 force applicable State insurance laws.

3 (2) BANKING AGENCY INFORMATION.—Upon
4 the request of the appropriate insurance regulator of
5 any State, the appropriate Federal banking agency
6 may provide any information of the agency regard-
7 ing any transaction or relationship between a deposi-
8 tory institution supervised by such Federal banking
9 agency and any affiliated company that is engaged
10 in insurance activities regulated by such State insur-
11 ance regulator. The appropriate Federal banking
12 agency may provide any other information to the ap-
13 propriate State insurance regulator that the agency
14 believes is necessary or appropriate to permit the
15 State insurance regulator to administer and enforce
16 applicable State insurance laws.

17 (3) STATE INSURANCE REGULATOR INFORMA-
18 TION.—Upon the request of the Board or the appro-
19 priate Federal banking agency, a State insurance
20 regulator may provide any examination or other re-
21 ports, records, or other information to which such
22 insurance regulator may have access with respect to
23 a company which—

24 (A) is engaged in insurance activities and
25 regulated by such insurance regulator; and

1 (B) is an affiliate of a depository institu-
2 tion or financial holding company.

3 (c) CONSULTATION.—Before making any determina-
4 tion relating to the initial affiliation of, or the continuing
5 affiliation of, a depository institution or financial holding
6 company with a company engaged in insurance activities,
7 the appropriate Federal banking agency shall consult with
8 the appropriate State insurance regulator of such com-
9 pany and take the views of such insurance regulator into
10 account in making such determination.

11 (d) EFFECT ON OTHER AUTHORITY.—Nothing in
12 this section shall limit in any respect the authority of the
13 appropriate Federal banking agency with respect to a de-
14 pository institution or bank holding company or any affil-
15 iate thereof under any provision of law.

16 (e) CONFIDENTIALITY AND PRIVILEGE.—

17 (1) CONFIDENTIALITY.—The appropriate Fed-
18 eral banking agency shall not provide any informa-
19 tion or material that is entitled to confidential treat-
20 ment under applicable Federal banking agency regu-
21 lations, or other applicable law, to a State insurance
22 regulator unless such regulator agrees to maintain
23 the information or material in confidence and to
24 take all reasonable steps to oppose any effort to se-
25 cure disclosure of the information or material by the

1 regulator. The appropriate Federal banking agency
2 shall treat as confidential any information or mate-
3 rial obtained from a State insurance regulator that
4 is entitled to confidential treatment under applicable
5 State regulations, or other applicable law, and take
6 all reasonable steps to oppose any effort to secure
7 disclosure of the information or material by the Fed-
8 eral banking agency.

9 (2) PRIVILEGE.—The provision pursuant to this
10 section of information or material by a Federal
11 banking agency or State insurance regulator shall
12 not constitute a waiver of, or otherwise affect, any
13 privilege to which the information or material is oth-
14 erwise subject.

15 (f) DEFINITIONS.—For purposes of this section, the
16 following definitions shall apply:

17 (1) APPROPRIATE FEDERAL BANKING AGENCY;
18 DEPOSITORY INSTITUTION.—The terms “appropriate
19 Federal banking agency” and “depository institu-
20 tion” have the same meanings as in section 3 of the
21 Federal Deposit Insurance Act.

22 (2) BOARD AND FINANCIAL HOLDING COM-
23 PANY.—The terms “Board” and “financial holding
24 company” have the same meanings as in section 2
25 of the Bank Holding Company Act of 1956.

1 **SEC. 308. DEFINITION OF STATE.**

2 For purposes of this subtitle, the term “State” means
3 any State of the United States, the District of Columbia,
4 any territory of the United States, Puerto Rico, Guam,
5 American Samoa, the Trust Territory of the Pacific Is-
6 lands, the Virgin Islands, and the Northern Mariana Is-
7 lands.

8 **Subtitle B—Redomestication of**
9 **Mutual Insurers**

10 **SEC. 311. GENERAL APPLICATION.**

11 This subtitle shall only apply to a mutual insurance
12 company in a State which has not enacted a law which
13 expressly establishes reasonable terms and conditions for
14 a mutual insurance company domiciled in such State to
15 reorganize into a mutual holding company.

16 **SEC. 312. REDOMESTICATION OF MUTUAL INSURERS.**

17 (a) REDOMESTICATION.—A mutual insurer organized
18 under the laws of any State may transfer its domicile to
19 a transferee domicile as a step in a reorganization in
20 which, pursuant to the laws of the transferee domicile and
21 consistent with the standards in subsection (f), the mutual
22 insurer becomes a stock insurer that is a direct or indirect
23 subsidiary of a mutual holding company.

24 (b) RESULTING DOMICILE.—Upon complying with
25 the applicable law of the transferee domicile governing
26 transfers of domicile and completion of a transfer pursu-

1 ant to this section, the mutual insurer shall cease to be
2 a domestic insurer in the transferor domicile and, as a
3 continuation of its corporate existence, shall be a domestic
4 insurer of the transferee domicile.

5 (c) LICENSES PRESERVED.—The certificate of au-
6 thority, agents' appointments and licenses, rates, approv-
7 als and other items that a licensed State allows and that
8 are in existence immediately prior to the date that a re-
9 domesticating insurer transfers its domicile pursuant to
10 this subtitle shall continue in full force and effect upon
11 transfer, if the insurer remains duly qualified to transact
12 the business of insurance in such licensed State.

13 (d) EFFECTIVENESS OF OUTSTANDING POLICIES
14 AND CONTRACTS.—

15 (1) IN GENERAL.—All outstanding insurance
16 policies and annuities contracts of a redomesticating
17 insurer shall remain in full force and effect and need
18 not be endorsed as to the new domicile of the in-
19 surer, unless so ordered by the State insurance regu-
20 lator of a licensed State, and then only in the case
21 of outstanding policies and contracts whose owners
22 reside in such licensed State.

23 (2) FORMS.—

24 (A) Applicable State law may require a re-
25 domesticating insurer to file new policy forms

1 with the State insurance regulator of a licensed
2 State on or before the effective date of the
3 transfer.

4 (B) Notwithstanding subparagraph (A), a
5 redomesticating insurer may use existing policy
6 forms with appropriate endorsements to reflect
7 the new domicile of the redomesticating insurer
8 until the new policy forms are approved for use
9 by the State insurance regulator of such li-
10 censed State.

11 (e) NOTICE.—A redomesticating insurer shall give
12 notice of the proposed transfer to the State insurance reg-
13 ulator of each licensed State and shall file promptly any
14 resulting amendments to corporate documents required to
15 be filed by a foreign licensed mutual insurer with the in-
16 surance regulator of each such licensed State.

17 (f) PROCEDURAL REQUIREMENTS.—No mutual in-
18 surer may redomesticate to another State and reorganize
19 into a mutual holding company pursuant to this section
20 unless the State insurance regulator of the transferee
21 domicile determines that the plan of reorganization of the
22 insurer includes the following requirements:

23 (1) APPROVAL BY BOARD OF DIRECTORS AND
24 POLICYHOLDERS.—The reorganization is approved
25 by at least a majority of the board of directors of

1 the mutual insurer and at least a majority of the
2 policyholders who vote after notice, disclosure of the
3 reorganization and the effects of the transaction on
4 policyholder contractual rights, and reasonable opportunity to vote, in accordance with such notice,
5 disclosure, and voting procedures as are approved by
6 the State insurance regulator of the transferee domicile.
7
8

9 (2) CONTINUED VOTING CONTROL BY POLICY-
10 HOLDERS; REVIEW OF PUBLIC STOCK OFFERING.—
11 After the consummation of a reorganization, the policyholders of the reorganized insurer shall have the
12 same voting rights with respect to the mutual holding company as they had before the reorganization
13 with respect to the mutual insurer. With respect to
14 an initial public offering of stock, the offering shall
15 be conducted in compliance with applicable securities
16 laws and in a manner approved by the State insurance regulator of the transferee domicile.
17
18
19

20 (3) AWARD OF STOCK OR GRANT OF OPTIONS
21 TO OFFICERS AND DIRECTORS.—During the applicable period provided for under the State law of the
22 transferee domicile following completion of an initial
23 public offering, or for a period of six months if no
24 such applicable period is provided, neither a stock
25

1 holding company nor the converted insurer shall
2 award any stock options or stock grants to persons
3 who are elected officers or directors of the mutual
4 holding company, the stock holding company, or the
5 converted insurer, except with respect to any such
6 awards or options to which a person is entitled as
7 a policyholder and as approved by the State insur-
8 ance regulator of the transferee domicile.

9 (4) POLICYHOLDER RIGHTS.—Upon reorganiza-
10 tion into a mutual holding company, the contractual
11 rights of the policyholders are preserved.

12 (5) FAIR AND EQUITABLE TREATMENT OF POL-
13 ICYHOLDERS.—The reorganization is approved as
14 fair and equitable to the policyholders by the insur-
15 ance regulator of the transferee domicile.

16 **SEC. 313. EFFECT ON STATE LAWS RESTRICTING REDOMES-**
17 **TICATION.**

18 (a) IN GENERAL.—Unless otherwise permitted by
19 this subtitle, State laws of any transferor domicile that
20 conflict with the purposes and intent of this subtitle are
21 preempted, including but not limited to—

22 (1) any law that has the purpose or effect of
23 impeding the activities of, taking any action against,
24 or applying any provision of law or regulation to,
25 any insurer or an affiliate of such insurer because

1 that insurer or any affiliate plans to redomesticate,
2 or has redomesticated, pursuant to this subtitle;

3 (2) any law that has the purpose or effect of
4 impeding the activities of, taking action against, or
5 applying any provision of law or regulation to, any
6 insured or any insurance licensee or other inter-
7 mediary because such person has procured insurance
8 from or placed insurance with any insurer or affil-
9 iate of such insurer that plans to redomesticate, or
10 has redomesticated, pursuant to this subtitle, but
11 only to the extent that such law would treat such in-
12 sured licensee or other intermediary differently than
13 if the person procured insurance from, or placed in-
14 surance with, an insured licensee or other inter-
15 mediary which had not redomesticated; and

16 (3) any law that has the purpose or effect of
17 terminating, because of the redomestication of a mu-
18 tual insurer pursuant to this subtitle, any certificate
19 of authority, agent appointment or license, rate ap-
20 proval, or other approval, of any State insurance
21 regulator or other State authority in existence imme-
22 diately prior to the redomestication in any State
23 other than the transferee domicile.

24 (b) DIFFERENTIAL TREATMENT PROHIBITED.—No
25 State law, regulation, interpretation, or functional equiva-

1 lent thereof, of a State other than a transferee domicile
2 may treat a redomesticating or redomesticated insurer or
3 any affiliate thereof any differently than an insurer oper-
4 ating in that State that is not a redomesticating or re-
5 domesticated insurer.

6 (c) LAWS PROHIBITING OPERATIONS.—If any li-
7 censed State fails to issue, delays the issuance of, or seeks
8 to revoke an original or renewal certificate of authority
9 of a redomesticated insurer promptly following redomes-
10 tication, except on grounds and in a manner consistent
11 with its past practices regarding the issuance of certifi-
12 cates of authority to foreign insurers that are not re-
13 domesticating, then the redomesticating insurer shall be
14 exempt from any State law of the licensed State to the
15 extent that such State law or the operation of such State
16 law would make unlawful, or regulate, directly or indi-
17 rectly, the operation of the redomesticated insurer, except
18 that such licensed State may require the redomesticated
19 insurer to—

20 (1) comply with the unfair claim settlement
21 practices law of the licensed State;

22 (2) pay, on a nondiscriminatory basis, applica-
23 ble premium and other taxes which are levied on li-
24 censed insurers or policyholders under the laws of
25 the licensed State;

1 (3) register with and designate the State insur-
2 ance regulator as its agent solely for the purpose of
3 receiving service of legal documents or process;

4 (4) submit to an examination by the State in-
5 surance regulator in any licensed State in which the
6 redomesticated insurer is doing business to deter-
7 mine the insurer's financial condition, if—

8 (A) the State insurance regulator of the
9 transferee domicile has not begun an examina-
10 tion of the redomesticated insurer and has not
11 scheduled such an examination to begin before
12 the end of the 1-year period beginning on the
13 date of the redomestication; and

14 (B) any such examination is coordinated to
15 avoid unjustified duplication and repetition;

16 (5) comply with a lawful order issued in—

17 (A) a delinquency proceeding commenced
18 by the State insurance regulator of any licensed
19 State if there has been a judicial finding of fi-
20 nancial impairment under paragraph (7); or

21 (B) a voluntary dissolution proceeding;

22 (6) comply with any State law regarding decep-
23 tive, false, or fraudulent acts or practices, except
24 that if the licensed State seeks an injunction regard-
25 ing the conduct described in this paragraph, such in-

1 junction must be obtained from a court of competent
2 jurisdiction as provided in section 314(a);

3 (7) comply with an injunction issued by a court
4 of competent jurisdiction, upon a petition by the
5 State insurance regulator alleging that the redomes-
6 ticating insurer is in hazardous financial condition
7 or is financially impaired;

8 (8) participate in any insurance insolvency
9 guaranty association on the same basis as any other
10 insurer licensed in the licensed State; and

11 (9) require a person acting, or offering to act,
12 as an insurance licensee for a redomesticated insurer
13 in the licensed State to obtain a license from that
14 State, except that such State may not impose any
15 qualification or requirement that discriminates
16 against a nonresident insurance licensee.

17 **SEC. 314. OTHER PROVISIONS.**

18 (a) JUDICIAL REVIEW.—The appropriate United
19 States district court shall have exclusive jurisdiction over
20 litigation arising under this section involving any redomes-
21 ticating or redomesticated insurer.

22 (b) SEVERABILITY.—If any provision of this section,
23 or the application thereof to any person or circumstances,
24 is held invalid, the remainder of the section, and the appli-

1 cation of such provision to other persons or circumstances,
2 shall not be affected thereby.

3 **SEC. 315. DEFINITIONS.**

4 For purposes of this subtitle, the following definitions
5 shall apply:

6 (1) COURT OF COMPETENT JURISDICTION.—

7 The term “court of competent jurisdiction” means a
8 court authorized pursuant to section 314(a) to adju-
9 dicate litigation arising under this subtitle.

10 (2) DOMICILE.—The term “domicile” means
11 the State in which an insurer is incorporated, char-
12 tered, or organized.

13 (3) INSURANCE LICENSEE.—The term “insur-
14 ance licensee” means any person holding a license
15 under State law to act as insurance agent, subagent,
16 broker, or consultant.

17 (4) INSTITUTION.—The term “institution”
18 means a corporation, joint stock company, limited li-
19 ability company, limited liability partnership, asso-
20 ciation, trust, partnership, or any similar entity.

21 (5) LICENSED STATE.—The term “licensed
22 State” means any State, the District of Columbia,
23 any territory of the United States, Puerto Rico,
24 Guam, American Samoa, the Trust Territory of the
25 Pacific Islands, the Virgin Islands, and the Northern

1 Mariana Islands in which the redomesticating in-
2 surer has a certificate of authority in effect imme-
3 diately prior to the redomestication.

4 (6) MUTUAL INSURER.—The term “mutual in-
5 surer” means a mutual insurer organized under the
6 laws of any State.

7 (7) PERSON.—The term “person” means an in-
8 dividual, institution, government or governmental
9 agency, State or political subdivision of a State, pub-
10 lic corporation, board, association, estate, trustee, or
11 fiduciary, or other similar entity.

12 (8) POLICYHOLDER.—The term “policyholder”
13 means the owner of a policy issued by a mutual in-
14 surer, except that, with respect to voting rights, the
15 term means a member of a mutual insurer or mu-
16 tual holding company granted the right to vote, as
17 determined under applicable State law.

18 (9) REDOMESTICATED INSURER.—The term
19 “redomesticated insurer” means a mutual insurer
20 that has redomesticated pursuant to this subtitle.

21 (10) REDOMESTICATING INSURER.—The term
22 “redomesticating insurer” means a mutual insurer
23 that is redomesticating pursuant to this subtitle.

24 (11) REDOMESTICATION OR TRANSFER.—The
25 term “redomestication” or “transfer” means the

1 transfer of the domicile of a mutual insurer from
2 one State to another State pursuant to this subtitle.

3 (12) STATE INSURANCE REGULATOR.—The
4 term “State insurance regulator” means the prin-
5 cipal insurance regulatory authority of a State, the
6 District of Columbia, any territory of the United
7 States, Puerto Rico, Guam, American Samoa, the
8 Trust Territory of the Pacific Islands, the Virgin Is-
9 lands, and the Northern Mariana Islands.

10 (13) STATE LAW.—The term “State law”
11 means the statutes of any State, the District of Co-
12 lumbia, any territory of the United States, Puerto
13 Rico, Guam, American Samoa, the Trust Territory
14 of the Pacific Islands, the Virgin Islands, and the
15 Northern Mariana Islands and any regulation, order,
16 or requirement prescribed pursuant to any such stat-
17 ute.

18 (14) TRANSFEREE DOMICILE.—The term
19 “transferee domicile” means the State to which a
20 mutual insurer is redomesticating pursuant to this
21 subtitle.

22 (15) TRANSFEROR DOMICILE.—The term
23 “transferor domicile” means the State from which a
24 mutual insurer is redomesticating pursuant to this
25 subtitle.

1 **SEC. 316. EFFECTIVE DATE.**

2 This subtitle shall take effect on the date of the en-
3 actment of this Act.

4 **Subtitle C—National Association of**
5 **Registered Agents and Brokers**

6 **SEC. 321. STATE FLEXIBILITY IN MULTISTATE LICENSING**
7 **REFORMS.**

8 (a) IN GENERAL.—The provisions of this subtitle
9 shall take effect unless, not later than 3 years after the
10 date of the enactment of this Act, at least a majority of
11 the States—

12 (1) have enacted uniform laws and regulations
13 governing the licensure of individuals and entities
14 authorized to sell and solicit the purchase of insur-
15 ance within the State; or

16 (2) have enacted reciprocity laws and regula-
17 tions governing the licensure of nonresident individ-
18 uals and entities authorized to sell and solicit insur-
19 ance within those States.

20 (b) UNIFORMITY REQUIRED.—States shall be deemed
21 to have established the uniformity necessary to satisfy
22 subsection (a)(1) if the States—

23 (1) establish uniform criteria regarding the in-
24 tegrity, personal qualifications, education, training,
25 and experience of licensed insurance producers, in-
26 cluding the qualification and training of sales per-

1 sonnel in ascertaining the appropriateness of a par-
2 ticular insurance product for a prospective customer;

3 (2) establish uniform continuing education re-
4 quirements for licensed insurance producers;

5 (3) establish uniform ethics course require-
6 ments for licensed insurance producers in conjunc-
7 tion with the continuing education requirements
8 under paragraph (2);

9 (4) establish uniform criteria to ensure that an
10 insurance product, including any annuity contract,
11 sold to a consumer is suitable and appropriate for
12 the consumer based on financial information dis-
13 closed by the consumer; and

14 (5) do not impose any requirement upon any in-
15 surance producer to be licensed or otherwise quali-
16 fied to do business as a nonresident that has the ef-
17 fect of limiting or conditioning that producer's ac-
18 tivities because of its residence or place of oper-
19 ations, except that counter-signature requirements
20 imposed on nonresident producers shall not be
21 deemed to have the effect of limiting or conditioning
22 a producer's activities because of its residence or
23 place of operations under this section.

1 (c) RECIPROCITY REQUIRED.—States shall be
2 deemed to have established the reciprocity required to sat-
3 isfy subsection (a)(2) if the following conditions are met:

4 (1) ADMINISTRATIVE LICENSING PROCE-
5 DURES.—At least a majority of the States permit a
6 producer that has a resident license for selling or so-
7 liciting the purchase of insurance in its home State
8 to receive a license to sell or solicit the purchase of
9 insurance in such majority of States as a non-
10 resident to the same extent that such producer is
11 permitted to sell or solicit the purchase of insurance
12 in its State, if the producer's home State also
13 awards such licenses on such a reciprocal basis,
14 without satisfying any additional requirements other
15 than submitting—

16 (A) a request for licensure;

17 (B) the application for licensure that the
18 producer submitted to its home State;

19 (C) proof that the producer is licensed and
20 in good standing in its home State; and

21 (D) the payment of any requisite fee to the
22 appropriate authority.

23 (2) CONTINUING EDUCATION REQUIRE-
24 MENTS.—A majority of the States accept an insur-
25 ance producer's satisfaction of its home State's con-

1 continuing education requirements for licensed insur-
2 ance producers to satisfy the States' own continuing
3 education requirements if the producer's home State
4 also recognizes the satisfaction of continuing edu-
5 cation requirements on such a reciprocal basis.

6 (3) NO LIMITING NONRESIDENT REQUIRE-
7 MENTS.—A majority of the States do not impose
8 any requirement upon any insurance producer to be
9 licensed or otherwise qualified to do business as a
10 nonresident that has the effect of limiting or condi-
11 tioning that producer's activities because of its resi-
12 dence or place of operations, except that
13 countersignature requirements imposed on non-
14 resident producers shall not be deemed to have the
15 effect of limiting or conditioning a producer's activi-
16 ties because of its residence or place of operations
17 under this section.

18 (4) RECIPROCAL RECIPROCITY.—Each of the
19 States that satisfies paragraphs (1), (2), and (3)
20 grants reciprocity to residents of all of the other
21 States that satisfy such paragraphs.

22 (d) DETERMINATION.—

23 (1) NAIC DETERMINATION.—At the end of the
24 3-year period beginning on the date of the enact-
25 ment of this Act, the National Association of Insur-

1 ance Commissioners (hereafter in this subtitle re-
2 ferred to as the "NAIC") shall determine, in con-
3 sultation with the insurance commissioners or chief
4 insurance regulatory officials of the States, whether
5 the uniformity or reciprocity required by subsections
6 (b) and (c) has been achieved.

7 (2) JUDICIAL REVIEW.—The appropriate
8 United States district court shall have exclusive ju-
9 risdiction over any challenge to the NAIC's deter-
10 mination under this section and such court shall
11 apply the standards set forth in section 706 of title
12 5, United States Code, when reviewing any such
13 challenge.

14 (e) CONTINUED APPLICATION.—If, at any time, the
15 uniformity or reciprocity required by subsections (b) and
16 (c) no longer exists, the provisions of this subtitle shall
17 take effect 2 years after the date on which such uniformity
18 or reciprocity ceases to exist, unless the uniformity or reci-
19 procity required by those provisions is satisfied before the
20 expiration of that 2-year period.

21 (f) SAVINGS PROVISION.—No provision of this sec-
22 tion shall be construed as requiring that any law, regula-
23 tion, provision, or action of any State which purports to
24 regulate insurance producers, including any such law, reg-
25 ulation, provision, or action which purports to regulate un-

1 fair trade practices or establish consumer protections, in-
2 cluding countersignature laws, be altered or amended in
3 order to satisfy the uniformity or reciprocity required by
4 subsections (b) and (c), unless any such law, regulation,
5 provision, or action is inconsistent with a specific require-
6 ment of any such subsection and then only to the extent
7 of such inconsistency.

8 (g) UNIFORM LICENSING.—Nothing in this section
9 shall be construed to require any State to adopt new or
10 additional licensing requirements to achieve the uniformity
11 necessary to satisfy subsection (a)(1).

12 **SEC. 322. NATIONAL ASSOCIATION OF REGISTERED**
13 **AGENTS AND BROKERS.**

14 (a) ESTABLISHMENT.—There is established the Na-
15 tional Association of Registered Agents and Brokers
16 (hereafter in this subtitle referred to as the “Associa-
17 tion”).

18 (b) STATUS.—The Association shall—

19 (1) be a nonprofit corporation;

20 (2) have succession until dissolved by an Act of
21 Congress;

22 (3) not be an agent or instrumentality of the
23 United States Government; and

24 (4) except as otherwise provided in this Act, be
25 subject to, and have all the powers conferred upon

1 a nonprofit corporation by the District of Columbia
2 Nonprofit Corporation Act (D.C. Code, sec. 29y–
3 1001 et seq.).

4 **SEC. 323. PURPOSE.**

5 The purpose of the Association shall be to provide
6 a mechanism through which uniform licensing, appoint-
7 ment, continuing education, and other insurance producer
8 sales qualification requirements and conditions can be
9 adopted and applied on a multistate basis, while pre-
10 serving the right of States to license, supervise, and dis-
11 cipline insurance producers and to prescribe and enforce
12 laws and regulations with regard to insurance-related con-
13 sumer protection and unfair trade practices.

14 **SEC. 324. RELATIONSHIP TO THE FEDERAL GOVERNMENT.**

15 The Association shall be subject to the supervision
16 and oversight of the NAIC.

17 **SEC. 325. MEMBERSHIP.**

18 (a) ELIGIBILITY.—

19 (1) IN GENERAL.—Any State-licensed insurance
20 producer shall be eligible to become a member in the
21 Association.

22 (2) INELIGIBILITY FOR SUSPENSION OR REV-
23 OCATION OF LICENSE.—Notwithstanding paragraph
24 (1), a State-licensed insurance producer shall not be
25 eligible to become a member if a State insurance

1 regulator has suspended or revoked such producer's
2 license in that State during the 3-year period pre-
3 ceding the date on which such producer applies for
4 membership.

5 (3) RESUMPTION OF ELIGIBILITY.—Paragraph
6 (2) shall cease to apply to any insurance producer
7 if—

8 (A) the State insurance regulator renews
9 the license of such producer in the State in
10 which the license was suspended or revoked; or

11 (B) the suspension or revocation is subse-
12 quently overturned.

13 (b) AUTHORITY TO ESTABLISH MEMBERSHIP CRI-
14 TERIA.—The Association shall have the authority to estab-
15 lish membership criteria that—

16 (1) bear a reasonable relationship to the pur-
17 poses for which the Association was established; and

18 (2) do not unfairly limit the access of smaller
19 agencies to the Association membership.

20 (c) ESTABLISHMENT OF CLASSES AND CAT-
21 EGORIES.—

22 (1) CLASSES OF MEMBERSHIP.—The Associa-
23 tion may establish separate classes of membership,
24 with separate criteria, if the Association reasonably
25 determines that performance of different duties re-

1 quires different levels of education, training, or expe-
2 rience.

3 (2) CATEGORIES.—The Association may estab-
4 lish separate categories of membership for individ-
5 uals and for other persons. The establishment of any
6 such categories of membership shall be based either
7 on the types of licensing categories that exist under
8 State laws or on the aggregate amount of business
9 handled by an insurance producer. No special cat-
10 egories of membership, and no distinct membership
11 criteria, shall be established for members which are
12 depository institutions or for their employees,
13 agents, or affiliates.

14 (d) MEMBERSHIP CRITERIA.—

15 (1) IN GENERAL.—The Association may estab-
16 lish criteria for membership which shall include
17 standards for integrity, personal qualifications, edu-
18 cation, training, and experience.

19 (2) MINIMUM STANDARD.—In establishing cri-
20 teria under paragraph (1), the Association shall con-
21 sider the highest levels of insurance producer quali-
22 fications established under the licensing laws of the
23 States.

24 (e) EFFECT OF MEMBERSHIP.—Membership in the
25 Association shall entitle the member to licensure in each

1 State for which the member pays the requisite fees, includ-
2 ing licensing fees and, where applicable, bonding require-
3 ments, set by such State.

4 (f) ANNUAL RENEWAL.—Membership in the Associa-
5 tion shall be renewed on an annual basis.

6 (g) CONTINUING EDUCATION.—The Association shall
7 establish, as a condition of membership, continuing edu-
8 cation requirements which shall be comparable to or great-
9 er than the continuing education requirements under the
10 licensing laws of a majority of the States.

11 (h) SUSPENSION AND REVOCATION.—The Associa-
12 tion may—

13 (1) inspect and examine the records and offices
14 of the members of the Association to determine com-
15 pliance with the criteria for membership established
16 by the Association; and

17 (2) suspend or revoke the membership of an in-
18 surance producer if—

19 (A) the producer fails to meet the applica-
20 ble membership criteria of the Association; or

21 (B) the producer has been subject to dis-
22 ciplinary action pursuant to a final adjudicatory
23 proceeding under the jurisdiction of a State in-
24 surance regulator, and the Association con-

1 cludes that retention of membership in the As-
2 sociation would not be in the public interest.

3 (i) OFFICE OF CONSUMER COMPLAINTS.—

4 (1) IN GENERAL.—The Association shall estab-
5 lish an office of consumer complaints that shall—

6 (A) receive and investigate complaints
7 from both consumers and State insurance regu-
8 lators related to members of the Association;
9 and

10 (B) recommend to the Association any dis-
11 ciplinary actions that the office considers appro-
12 priate, to the extent that any such rec-
13 ommendation is not inconsistent with State law.

14 (2) RECORDS AND REFERRALS.—The office of
15 consumer complaints of the Association shall—

16 (A) maintain records of all complaints re-
17 ceived in accordance with paragraph (1) and
18 make such records available to the NAIC and
19 to each State insurance regulator for the State
20 of residence of the consumer who filed the com-
21 plaint; and

22 (B) refer, when appropriate, any such com-
23 plaint to any appropriate State insurance regu-
24 lator.

1 (3) TELEPHONE AND OTHER ACCESS.—The of-
2 fice of consumer complaints shall maintain a toll-free
3 telephone number for the purpose of this subsection
4 and, as practicable, other alternative means of com-
5 munication with consumers, such as an Internet
6 home page.

7 **SEC. 326. BOARD OF DIRECTORS.**

8 (a) ESTABLISHMENT.—There is established the
9 board of directors of the Association (hereafter in this sub-
10 title referred to as the “Board”) for the purpose of gov-
11 erning and supervising the activities of the Association
12 and the members of the Association.

13 (b) POWERS.—The Board shall have such powers and
14 authority as may be specified in the bylaws of the Associa-
15 tion.

16 (c) COMPOSITION.—

17 (1) MEMBERS.—The Board shall be composed
18 of 7 members appointed by the NAIC.

19 (2) REQUIREMENT.—At least 4 of the members
20 of the Board shall each have significant experience
21 with the regulation of commercial lines of insurance
22 in at least 1 of the 20 States in which the greatest
23 total dollar amount of commercial-lines insurance is
24 placed in the United States.

25 (3) INITIAL BOARD MEMBERSHIP.—

1 (A) IN GENERAL.—If, by the end of the 2-
2 year period beginning on the date of the enact-
3 ment of this Act, the NAIC has not appointed
4 the initial 7 members of the Board of the Asso-
5 ciation, the initial Board shall consist of the 7
6 State insurance regulators of the 7 States with
7 the greatest total dollar amount of commercial-
8 lines insurance in place as of the end of such
9 period.

10 (B) ALTERNATE COMPOSITION.—If any of
11 the State insurance regulators described in sub-
12 paragraph (A) declines to serve on the Board,
13 the State insurance regulator with the next
14 greatest total dollar amount of commercial-lines
15 insurance in place, as determined by the NAIC
16 as of the end of such period, shall serve as a
17 member of the Board.

18 (C) INOPERABILITY.—If fewer than 7
19 State insurance regulators accept appointment
20 to the Board, the Association shall be estab-
21 lished without NAIC oversight pursuant to sec-
22 tion 332.

23 (d) TERMS.—The term of each director shall, after
24 the initial appointment of the members of the Board, be

1 for 3 years, with one-third of the directors to be appointed
2 each year.

3 (e) BOARD VACANCIES.—A vacancy on the Board
4 shall be filled in the same manner as the original appoint-
5 ment of the initial Board for the remainder of the term
6 of the vacating member.

7 (f) MEETINGS.—The Board shall meet at the call of
8 the chairperson, or as otherwise provided by the bylaws
9 of the Association.

10 **SEC. 327. OFFICERS.**

11 (a) IN GENERAL.—

12 (1) POSITIONS.—The officers of the Association
13 shall consist of a chairperson and a vice chairperson
14 of the Board, a president, secretary, and treasurer
15 of the Association, and such other officers and as-
16 sistant officers as may be deemed necessary.

17 (2) MANNER OF SELECTION.—Each officer of
18 the Board and the Association shall be elected or ap-
19 pointed at such time and in such manner and for
20 such terms not exceeding 3 years as may be pre-
21 scribed in the bylaws of the Association.

22 (b) CRITERIA FOR CHAIRPERSON.—Only individuals
23 who are members of the NAIC shall be eligible to serve
24 as the chairperson of the board of directors.

1 **SEC. 328. BYLAWS, RULES, AND DISCIPLINARY ACTION.**

2 (a) ADOPTION AND AMENDMENT OF BYLAWS.—

3 (1) COPY REQUIRED TO BE FILED WITH THE
4 NAIC.—The board of directors of the Association
5 shall file with the NAIC a copy of the proposed by-
6 laws or any proposed amendment to the bylaws, ac-
7 companied by a concise general statement of the
8 basis and purpose of such proposal.

9 (2) EFFECTIVE DATE.—Except as provided in
10 paragraph (3), any proposed bylaw or proposed
11 amendment shall take effect—

12 (A) 30 days after the date of the filing of
13 a copy with the NAIC;

14 (B) upon such later date as the Associa-
15 tion may designate; or

16 (C) upon such earlier date as the NAIC
17 may determine.

18 (3) DISAPPROVAL BY THE NAIC.—Notwith-
19 standing paragraph (2), a proposed bylaw or amend-
20 ment shall not take effect if, after public notice and
21 opportunity to participate in a public hearing—

22 (A) the NAIC disapproves such proposal as
23 being contrary to the public interest or contrary
24 to the purposes of this subtitle and provides no-
25 tice to the Association setting forth the reasons
26 for such disapproval; or

1 (B) the NAIC finds that such proposal in-
2 volves a matter of such significant public inter-
3 est that public comment should be obtained, in
4 which case it may, after notifying the Associa-
5 tion in writing of such finding, require that the
6 procedures set forth in subsection (b) be fol-
7 lowed with respect to such proposal, in the
8 same manner as if such proposed bylaw change
9 were a proposed rule change within the mean-
10 ing of such subsection.

11 (b) ADOPTION AND AMENDMENT OF RULES.—

12 (1) FILING PROPOSED REGULATIONS WITH THE
13 NAIC.—

14 (A) IN GENERAL.—The board of directors
15 of the Association shall file with the NAIC a
16 copy of any proposed rule or any proposed
17 amendment to a rule of the Association which
18 shall be accompanied by a concise general state-
19 ment of the basis and purpose of such proposal.

20 (B) OTHER RULES AND AMENDMENTS IN-
21 EFFECTIVE.—No proposed rule or amendment
22 shall take effect unless approved by the NAIC
23 or otherwise permitted in accordance with this
24 paragraph.

1 (2) INITIAL CONSIDERATION BY THE NAIC.—

2 Not later than 35 days after the date of publication
3 of notice of filing of a proposal, or before the end
4 of such longer period not to exceed 90 days as the
5 NAIC may designate after such date, if the NAIC
6 finds such longer period to be appropriate and sets
7 forth its reasons for so finding, or as to which the
8 Association consents, the NAIC shall—

9 (A) by order approve such proposed rule or
10 amendment; or

11 (B) institute proceedings to determine
12 whether such proposed rule or amendment
13 should be modified or disapproved.

14 (3) NAIC PROCEEDINGS.—

15 (A) IN GENERAL.—Proceedings instituted
16 by the NAIC with respect to a proposed rule or
17 amendment pursuant to paragraph (2) shall—

18 (i) include notice of the grounds for
19 disapproval under consideration;

20 (ii) provide opportunity for hearing;
21 and

22 (iii) be concluded not later than 180
23 days after the date of the Association's fil-
24 ing of such proposed rule or amendment.

1 (B) DISPOSITION OF PROPOSAL.—At the
2 conclusion of any proceeding under subpara-
3 graph (A), the NAIC shall, by order, approve or
4 disapprove the proposed rule or amendment.

5 (C) EXTENSION OF TIME FOR CONSIDER-
6 ATION.—The NAIC may extend the time for
7 concluding any proceeding under subparagraph
8 (A) for—

9 (i) not more than 60 days if the
10 NAIC finds good cause for such extension
11 and sets forth its reasons for so finding; or

12 (ii) such longer period as to which the
13 Association consents.

14 (4) STANDARDS FOR REVIEW.—

15 (A) GROUNDS FOR APPROVAL.—The NAIC
16 shall approve a proposed rule or amendment if
17 the NAIC finds that the rule or amendment is
18 in the public interest and is consistent with the
19 purposes of this Act.

20 (B) APPROVAL BEFORE END OF NOTICE
21 PERIOD.—The NAIC shall not approve any pro-
22 posed rule before the end of the 30-day period
23 beginning on the date on which the Association
24 files proposed rules or amendments in accord-
25 ance with paragraph (1), unless the NAIC finds

1 good cause for so doing and sets forth the rea-
2 sons for so finding.

3 (5) ALTERNATE PROCEDURE.—

4 (A) IN GENERAL.—Notwithstanding any
5 provision of this subsection other than subpara-
6 graph (B), a proposed rule or amendment relat-
7 ing to the administration or organization of the
8 Association shall take effect—

9 (i) upon the date of filing with the
10 NAIC, if such proposed rule or amendment
11 is designated by the Association as relating
12 solely to matters which the NAIC, con-
13 sistent with the public interest and the
14 purposes of this subsection, determines by
15 rule do not require the procedures set forth
16 in this paragraph; or

17 (ii) upon such date as the NAIC shall
18 for good cause determine.

19 (B) ABROGATION BY THE NAIC.—

20 (i) IN GENERAL.—At any time within
21 60 days after the date of filing of any pro-
22 posed rule or amendment under subpara-
23 graph (A)(i) or clause (ii) of this subpara-
24 graph, the NAIC may repeal such rule or
25 amendment and require that the rule or

1 amendment be refiled and reviewed in ac-
2 cordance with this paragraph, if the NAIC
3 finds that such action is necessary or ap-
4 propriate in the public interest, for the
5 protection of insurance producers or policy-
6 holders, or otherwise in furtherance of the
7 purposes of this subtitle.

8 (ii) EFFECT OF RECONSIDERATION BY
9 THE NAIC.—Any action of the NAIC pur-
10 suant to clause (i) shall—

11 (I) not affect the validity or force
12 of a rule change during the period
13 such rule or amendment was in effect;
14 and

15 (II) not be considered to be a
16 final action.

17 (c) ACTION REQUIRED BY THE NAIC.—The NAIC
18 may, in accordance with such rules as the NAIC deter-
19 mines to be necessary or appropriate to the public interest
20 or to carry out the purposes of this subtitle, require the
21 Association to adopt, amend, or repeal any bylaw, rule,
22 or amendment of the Association, whenever adopted.

23 (d) DISCIPLINARY ACTION BY THE ASSOCIATION.—

24 (1) SPECIFICATION OF CHARGES.—In any pro-
25 ceeding to determine whether membership shall be

1 denied, suspended, revoked, or not renewed (here-
2 after in this section referred to as a “disciplinary ac-
3 tion”), the Association shall bring specific charges,
4 notify such member of such charges, give the mem-
5 ber an opportunity to defend against the charges,
6 and keep a record.

7 (2) SUPPORTING STATEMENT.—A determina-
8 tion to take disciplinary action shall be supported by
9 a statement setting forth—

10 (A) any act or practice in which such
11 member has been found to have been engaged;

12 (B) the specific provision of this subtitle,
13 the rules or regulations under this subtitle, or
14 the rules of the Association which any such act
15 or practice is deemed to violate; and

16 (C) the sanction imposed and the reason
17 for such sanction.

18 (e) NAIC REVIEW OF DISCIPLINARY ACTION.—

19 (1) NOTICE TO THE NAIC.—If the Association
20 orders any disciplinary action, the Association shall
21 promptly notify the NAIC of such action.

22 (2) REVIEW BY THE NAIC.—Any disciplinary
23 action taken by the Association shall be subject to
24 review by the NAIC—

25 (A) on the NAIC’s own motion; or

1 (B) upon application by any person ag-
2 grieved by such action if such application is
3 filed with the NAIC not more than 30 days
4 after the later of—

5 (i) the date the notice was filed with
6 the NAIC pursuant to paragraph (1); or

7 (ii) the date the notice of the discipli-
8 nary action was received by such aggrieved
9 person.

10 (f) EFFECT OF REVIEW.—The filing of an applica-
11 tion to the NAIC for review of a disciplinary action, or
12 the institution of review by the NAIC on the NAIC's own
13 motion, shall not operate as a stay of disciplinary action
14 unless the NAIC otherwise orders.

15 (g) SCOPE OF REVIEW.—

16 (1) IN GENERAL.—In any proceeding to review
17 such action, after notice and the opportunity for
18 hearing, the NAIC shall—

19 (A) determine whether the action should be
20 taken;

21 (B) affirm, modify, or rescind the discipli-
22 nary sanction; or

23 (C) remand to the Association for further
24 proceedings.

1 (2) DISMISSAL OF REVIEW.—The NAIC may
2 dismiss a proceeding to review disciplinary action if
3 the NAIC finds that—

4 (A) the specific grounds on which the ac-
5 tion is based exist in fact;

6 (B) the action is in accordance with appli-
7 cable rules and regulations; and

8 (C) such rules and regulations are, and
9 were, applied in a manner consistent with the
10 purposes of this subtitle.

11 **SEC. 329. ASSESSMENTS.**

12 (a) INSURANCE PRODUCERS SUBJECT TO ASSESS-
13 MENT.—The Association may establish such application
14 and membership fees as the Association finds necessary
15 to cover the costs of its operations, including fees made
16 reimbursable to the NAIC under subsection (b), except
17 that, in setting such fees, the Association may not dis-
18 criminate against smaller insurance producers.

19 (b) NAIC ASSESSMENTS.—The NAIC may assess the
20 Association for any costs that the NAIC incurs under this
21 subtitle.

22 **SEC. 330. FUNCTIONS OF THE NAIC.**

23 (a) ADMINISTRATIVE PROCEDURE.—Determinations
24 of the NAIC, for purposes of making rules pursuant to
25 section 328, shall be made after appropriate notice and

1 opportunity for a hearing and for submission of views of
2 interested persons.

3 (b) EXAMINATIONS AND REPORTS.—

4 (1) EXAMINATIONS.—The NAIC may make
5 such examinations and inspections of the Association
6 and require the Association to furnish to the NAIC
7 such reports and records or copies thereof as the
8 NAIC may consider necessary or appropriate in the
9 public interest or to effectuate the purposes of this
10 subtitle.

11 (2) REPORT BY ASSOCIATION.—As soon as
12 practicable after the close of each fiscal year, the As-
13 sociation shall submit to the NAIC a written report
14 regarding the conduct of its business, and the exer-
15 cise of the other rights and powers granted by this
16 subtitle, during such fiscal year. Such report shall
17 include financial statements setting forth the finan-
18 cial position of the Association at the end of such
19 fiscal year and the results of its operations (includ-
20 ing the source and application of its funds) for such
21 fiscal year. The NAIC shall transmit such report to
22 the President and the Congress with such comment
23 thereon as the NAIC determines to be appropriate.

1 **SEC. 331. LIABILITY OF THE ASSOCIATION AND THE DIREC-**
2 **TORS, OFFICERS, AND EMPLOYEES OF THE**
3 **ASSOCIATION.**

4 (a) IN GENERAL.—The Association shall not be
5 deemed to be an insurer or insurance producer within the
6 meaning of any State law, rule, regulation, or order regu-
7 lating or taxing insurers, insurance producers, or other en-
8 titities engaged in the business of insurance, including pro-
9 visions imposing premium taxes, regulating insurer sol-
10 vency or financial condition, establishing guaranty funds
11 and levying assessments, or requiring claims settlement
12 practices.

13 (b) LIABILITY OF THE ASSOCIATION, ITS DIREC-
14 TORS, OFFICERS, AND EMPLOYEES.—Neither the Associa-
15 tion nor any of its directors, officers, or employees shall
16 have any liability to any person for any action taken or
17 omitted in good faith under or in connection with any mat-
18 ter subject to this subtitle.

19 **SEC. 332. ELIMINATION OF NAIC OVERSIGHT.**

20 (a) IN GENERAL.—The Association shall be estab-
21 lished without NAIC oversight and the provisions set forth
22 in section 324, subsections (a), (b), (c), and (e) of section
23 328, and sections 329(b) and 330 of this subtitle shall
24 cease to be effective if, at the end of the 2-year period
25 beginning on the date on which the provisions of this sub-
26 title take effect pursuant to section 321—

1 (1) at least a majority of the States rep-
2 resenting at least 50 percent of the total United
3 States commercial-lines insurance premiums have
4 not satisfied the uniformity or reciprocity require-
5 ments of subsections (a), (b), and (c) of section 321;
6 and

7 (2) the NAIC has not approved the Associa-
8 tion's bylaws as required by section 328 or is unable
9 to operate or supervise the Association, or the Asso-
10 ciation is not conducting its activities as required
11 under this Act.

12 (b) BOARD APPOINTMENTS.—If the repeals required
13 by subsection (a) are implemented, the following shall
14 apply:

15 (1) GENERAL APPOINTMENT POWER.—The
16 President, with the advice and consent of the Sen-
17 ate, shall appoint the members of the Association's
18 Board established under section 326 from lists of
19 candidates recommended to the President by the
20 NAIC.

21 (2) PROCEDURES FOR OBTAINING NAIC AP-
22 POINTMENT RECOMMENDATIONS.—

23 (A) INITIAL DETERMINATION AND REC-
24 COMMENDATIONS.—After the date on which the
25 provisions of subsection (a) take effect, the

1 NAIC shall, not later than 60 days thereafter,
2 provide a list of recommended candidates to the
3 President. If the NAIC fails to provide a list by
4 that date, or if any list that is provided does
5 not include at least 14 recommended candidates
6 or comply with the requirements of section
7 326(c), the President shall, with the advice and
8 consent of the Senate, make the requisite ap-
9 pointments without considering the views of the
10 NAIC.

11 (B) SUBSEQUENT APPOINTMENTS.—After
12 the initial appointments, the NAIC shall pro-
13 vide a list of at least six recommended can-
14 didates for the Board to the President by Janu-
15 ary 15 of each subsequent year. If the NAIC
16 fails to provide a list by that date, or if any list
17 that is provided does not include at least six
18 recommended candidates or comply with the re-
19 quirements of section 326(c), the President,
20 with the advice and consent of the Senate, shall
21 make the requisite appointments without con-
22 sidering the views of the NAIC.

23 (C) PRESIDENTIAL OVERSIGHT.—

24 (i) REMOVAL.—If the President deter-
25 mines that the Association is not acting in

1 the interests of the public, the President
2 may remove the entire existing Board for
3 the remainder of the term to which the
4 members of the Board were appointed and
5 appoint, with the advice and consent of the
6 Senate, new members to fill the vacancies
7 on the Board for the remainder of such
8 terms.

9 (ii) SUSPENSION OF RULES OR AC-
10 TIONS.—The President, or a person des-
11 ignated by the President for such purpose,
12 may suspend the effectiveness of any rule,
13 or prohibit any action, of the Association
14 which the President or the designee deter-
15 mines is contrary to the public interest.

16 (c) ANNUAL REPORT.—As soon as practicable after
17 the close of each fiscal year, the Association shall submit
18 to the President and to the Congress a written report rel-
19 ative to the conduct of its business, and the exercise of
20 the other rights and powers granted by this subtitle, dur-
21 ing such fiscal year. Such report shall include financial
22 statements setting forth the financial position of the Asso-
23 ciation at the end of such fiscal year and the results of
24 its operations (including the source and application of its
25 funds) for such fiscal year.

1 **SEC. 333. RELATIONSHIP TO STATE LAW.**

2 (a) **PREEMPTION OF STATE LAWS.**—State laws, reg-
3 ulations, provisions, or other actions purporting to regu-
4 late insurance producers shall be preempted as provided
5 in subsection (b).

6 (b) **PROHIBITED ACTIONS.**—No State shall—

7 (1) impede the activities of, take any action
8 against, or apply any provision of law or regulation
9 to, any insurance producer because that insurance
10 producer or any affiliate plans to become, has ap-
11 plied to become, or is a member of the Association;

12 (2) impose any requirement upon a member of
13 the Association that it pay different fees to be li-
14 censed or otherwise qualified to do business in that
15 State, including bonding requirements, based on its
16 residency;

17 (3) impose any licensing, appointment, integ-
18 rity, personal or corporate qualifications, education,
19 training, experience, residency, or continuing edu-
20 cation requirement upon a member of the Associa-
21 tion that is different from the criteria for member-
22 ship in the Association or renewal of such member-
23 ship, except that counter-signature requirements im-
24 posed on nonresident producers shall not be deemed
25 to have the effect of limiting or conditioning a pro-

1 ducer's activities because of its residence or place of
2 operations under this section; or

3 (4) implement the procedures of such State's
4 system of licensing or renewing the licenses of insur-
5 ance producers in a manner different from the au-
6 thority of the Association under section 325.

7 (c) SAVINGS PROVISION.—Except as provided in sub-
8 sections (a) and (b), no provision of this section shall be
9 construed as altering or affecting the continuing effective-
10 ness of any law, regulation, provision, or other action of
11 any State which purports to regulate insurance producers,
12 including any such law, regulation, provision, or action
13 which purports to regulate unfair trade practices or estab-
14 lish consumer protections, including countersignature
15 laws.

16 **SEC. 334. COORDINATION WITH OTHER REGULATORS.**

17 (a) COORDINATION WITH STATE INSURANCE REGU-
18 LATORS.—The Association shall have the authority to—

19 (1) issue uniform insurance producer applica-
20 tions and renewal applications that may be used to
21 apply for the issuance or removal of State licenses,
22 while preserving the ability of each State to impose
23 such conditions on the issuance or renewal of a li-
24 cense as are consistent with section 333;

1 (2) establish a central clearinghouse through
2 which members of the Association may apply for the
3 issuance or renewal of licenses in multiple States;
4 and

5 (3) establish or utilize a national database for
6 the collection of regulatory information concerning
7 the activities of insurance producers.

8 (b) COORDINATION WITH THE NATIONAL ASSOCIA-
9 TION OF SECURITIES DEALERS.—The Association shall
10 coordinate with the National Association of Securities
11 Dealers in order to ease any administrative burdens that
12 fall on persons that are members of both associations, con-
13 sistent with the purposes of this subtitle and the Federal
14 securities laws.

15 **SEC. 335. JUDICIAL REVIEW.**

16 (a) JURISDICTION.—The appropriate United States
17 district court shall have exclusive jurisdiction over litiga-
18 tion involving the Association, including disputes between
19 the Association and its members that arise under this sub-
20 title. Suits brought in State court involving the Associa-
21 tion shall be deemed to have arisen under Federal law and
22 therefore be subject to jurisdiction in the appropriate
23 United States district court.

24 (b) EXHAUSTION OF REMEDIES.—An aggrieved per-
25 son shall be required to exhaust all available administra-

1 tive remedies before the Association and the NAIC before
2 it may seek judicial review of an Association decision.

3 (c) STANDARDS OF REVIEW.—The standards set
4 forth in section 553 of title 5, United States Code, shall
5 be applied whenever a rule or bylaw of the Association is
6 under judicial review, and the standards set forth in sec-
7 tion 554 of title 5, United States Code, shall be applied
8 whenever a disciplinary action of the Association is judi-
9 cially reviewed.

10 **SEC. 336. DEFINITIONS.**

11 For purposes of this subtitle, the following definitions
12 shall apply:

13 (1) HOME STATE.—The term “home State”
14 means the State in which the insurance producer
15 maintains its principal place of residence and is li-
16 censed to act as an insurance producer.

17 (2) INSURANCE.—The term “insurance” means
18 any product, other than title insurance, defined or
19 regulated as insurance by the appropriate State in-
20 surance regulatory authority.

21 (3) INSURANCE PRODUCER.—The term “insur-
22 ance producer” means any insurance agent or
23 broker, surplus lines broker, insurance consultant,
24 limited insurance representative, and any other per-
25 son that solicits, negotiates, effects, procures, deliv-

1 ers, renews, continues or binds policies of insurance
2 or offers advice, counsel, opinions or services related
3 to insurance.

4 (4) STATE.—The term “State” includes any
5 State, the District of Columbia, any territory of the
6 United States, Puerto Rico, Guam, American
7 Samoa, the Trust Territory of the Pacific Islands,
8 the Virgin Islands, and the Northern Mariana Is-
9 lands.

10 (5) STATE LAW.—The term “State law” in-
11 cludes all laws, decisions, rules, regulations, or other
12 State action having the effect of law, of any State.
13 A law of the United States applicable only to the
14 District of Columbia shall be treated as a State law
15 rather than a law of the United States.

16 **Subtitle D—Rental Car Agency**
17 **Insurance Activities**

18 **SEC. 341. STANDARD OF REGULATION FOR MOTOR VEHI-**
19 **CLE RENTALS.**

20 (a) PROTECTION AGAINST RETROACTIVE APPLICA-
21 TION OF REGULATORY AND LEGAL ACTION.—Except as
22 provided in subsection (b), during the 3-year period begin-
23 ning on the date of the enactment of this Act, it shall
24 be a presumption that no State law imposes any licensing,
25 appointment, or education requirements on any person

1 who solicits the purchase of or sells insurance connected
2 with, and incidental to, the lease or rental of a motor vehi-
3 cle.

4 (b) PREEMINENCE OF STATE INSURANCE LAW.—No
5 provision of this section shall be construed as altering the
6 validity, interpretation, construction, or effect of—

7 (1) any State statute;

8 (2) the prospective application of any court
9 judgment interpreting or applying any State statute;
10 or

11 (3) the prospective application of any final
12 State regulation, order, bulletin, or other statutorily
13 authorized interpretation or action,

14 which, by its specific terms, expressly regulates or exempts
15 from regulation any person who solicits the purchase of
16 or sells insurance connected with, and incidental to, the
17 short-term lease or rental of a motor vehicle.

18 (c) SCOPE OF APPLICATION.—This section shall
19 apply with respect to—

20 (1) the lease or rental of a motor vehicle for a
21 total period of 90 consecutive days or less; and

22 (2) insurance which is provided in connection
23 with, and incidentally to, such lease or rental for a
24 period of consecutive days not exceeding the lease or
25 rental period.

1 (d) MOTOR VEHICLE DEFINED.—For purposes of
2 this section, the term “motor vehicle” has the same mean-
3 ing as in section 13102 of title 49, United States Code.